

REMARKS

Applicant respectfully traverses the Examiner's requirement for an election on the grounds that the species are not patentably distinct. Regarding the species of the Examiner's Groups I and II, applicant submits that they are obvious variants of each other. Group II exemplifies embodiments of the invention, including prompting a caller to ticket or hold the itinerary. The species of Group I is an embodiment that improves upon the others by acquiring payment information for the itinerary. Thus, applicant submits that the recitation of acquiring payment information for the itinerary does not constitute a separate invention, but rather is an optional feature advantageously incorporated into the species of Group II.

Applicant elects Group I, claims 1-11, with traverse.

In light of the amendments to the claims as well as the comments that follow, the Applicant respectfully requests that the Examiner withdraw the rejections provided in the December 3, 2008 Office Action. Applicant has amended claims 1 and 12. Claims 1-22 remain pending in the application. No new matter has been added.

I. THE EXAMINER'S REJECTIONS

The Examiner rejected claims 1-5 and 7-10 under 35 U.S.C. § 103(a) as being unpatentable over Pugliese, et al., U.S. Pat. Pub. No. 2001/0016825 (hereinafter "Pugliese") in view of Block, et al., U.S. Pat. Pub. No. 2003/0055689 (hereinafter "Block"). The Examiner states:

Pugliese teaches a method of providing automated reservations comprising the steps of: interacting with a user via a system (§ 0011); authenticating said user utilizing one or more forms of identification data provided by said user to said system to access an awards account (§§ 0011, 74); acquiring itinerary data from said user (§ 0067); querying an itinerary database with said itinerary data (§§ 0040, 0081); providing to said user a

plurality of itineraries (§ 0040); allowing a user to select an itinerary from said plurality of itineraries (§ 0040); querying an awards database to determine if said user has sufficient awards in said awards account (§§ 0074-75); and acquiring payment information from said user for said selected itinerary (§ 0040).

...

Pugliese does not teach that the system used to interact with a user is an automated interactive voice response system; which is taught by Block (§ 0010). Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself – that is, in the substitution of the automated interactive voice response system in Block for the system used to interact with the user taught by Pugliese. Both systems share similar characteristics and functions. It would have been *prima facie* obvious to one having ordinary skill in the art at the time of invention to incorporate an automated interactive voice response system because it is merely the simple substitution of one known element for another that could be implemented through routine engineering producing predictable results. (Office Action dated December 3, 2008, pp. 4-5).

The Examiner also rejected claims 2-5 and 7-10 as being unpatentable over Pugliese in view of Block. Specifically, with respect to claim 2, the Examiner states that Pugliese discloses confirmation of the selected itinerary. (Office Action dated December 3, 2008, p. 5). Regarding claim 3, the Examiner states that Pugliese “further teaches placing said selected itinerary on hold (§ 0067); and providing said user a reference number indicative of said itinerary (Abstract).” (Office Action dated December 3, 2008, p. 5). With respect to claim 4, the Examiner states that Pugliese “further teaches said user interacts with said system utilizing vocal responses (§§ 0011, 40 - use of a telephone).” (Office Action dated December 3, 2008, p. 5). Regarding claim 5, the Examiner states that Pugliese discloses that seats are assigned to users for the selected itinerary. (Office Action dated December 3, 2008, p. 5). As per claim 7, the Examiner states that Pugliese “further teaches said itinerary data includes one or more of the group consisting of a departure date, an arrival date, a departure time, an arrival time, departure

location, arrival destination, number of passengers, class of service, and seating preference (§ 0067).” (Office Action dated December 3, 2008, pp. 5-6). With respect to claim 8, the Examiner states that Pugliese discloses biometric identification data. (Office Action dated December 3, 2008, p. 6). As per Claim 9, the Examiner states that “[i]t would have been prima facie obvious to incorporate voice data as identification data because it is the substitution of one type of identification data for another (i.e., the types taught by Pugliese), that could have been implemented through routine engineering producing predictable results.” (Office Action dated December 3, 2008, p. 6). Last, regarding claim 10, the Examiner states that Pugliese “further teaches wherein said identification data is at least one of the group consisting of a user’s name, a personal identification number, a social security number, a telephone number, a birth date, and a frequent flyer number (§ 0044).” (Office Action dated December 3, 2008, p. 6).

The Examiner also rejected claim 6 as being unpatentable over Pugliese in view of Block and further in view of Trader et al., U.S. Patent No. 5,854,837 (hereinafter “Trader”). The Examiner states that Trader teaches that a user is transferred to an operator upon request. In the opinion of the Examiner, it would have been prima facie obvious to one of ordinary skill in the art to “incorporate the user is transferred to the operator upon request in order to give the user additional help or information (as taught by Trader; column 1, line 24).” (Office Action dated December 3, 2008, p. 6).

Finally, the Examiner rejected claim 11 as being unpatentable over Pugliese in view of Block and further in view of Lambert et al. U.S. Patent No. 6,282,649 (“Lambert”). The Examiner states that Lambert teaches that the awards database is a look-up table. In the opinion of the Examiner, it would have been obvious to one of

ordinary skill in the art to incorporate into the Pugliese method an awards database in the form of a look-up table “in order to identify a user and his/her access authority.” (Office Action dated December 3, 2008, p. 7).

II. THE EXAMINER’S REJECTIONS SHOULD BE WITHDRAWN

The Examiner rejected claim 1 under 35 U.S.C. § 103(a) as being unpatentable under Pugliese in view of Block. Applicant respectfully disagrees and submits that Pugliese and Block together do not teach or suggest all of the claim elements of the present invention.

The Examiner states that Pugliese teaches a method of “...querying an awards database to determine if said user has sufficient awards in said awards account for an itinerary (§§ 0074-75).” (Office Action dated December 3, 2008, p. 4). As shown in Pugliese, frequent flyer miles may be used by a passenger to pay for a telephone call from the airplane, to purchase refreshments, or to gain access to entertainment services. (Pugliese §§ 0073-75). Specifically, Pugliese states:

[T]he card reader also can be used to read the passenger’s I.D. card to access the main storage of the central computer, where a record of the passenger’s accumulated frequent flier miles is stored. The airline will then allow the passenger to use frequent flier miles like cash, in a predetermined ratio of miles to cash, to pay for a telephone call from the airplane. (Pugliese § 0073).

Pugliese does not contemplate the use of an automated voice response system to determine if a customer has sufficient awards in an awards account for a selected itinerary. In contrast, Pugliese describes a traditional reservations system whereby a customer calls an agent or accesses the system via an automatic teller machine (“ATM”), selects a flight and makes a payment by credit card:

Once a passenger or the travel agency calls in or otherwise accesses the reservation center via an ATM, flight information is given for available flights to a specified location on a specified date, from which a specific flight is selected. If an individual calls in or uses an ATM, payment is made at block 3 by a credit card account, which is automatically accessed while the passenger is on the telephone line, causing transfer of the payment at that moment to the airline. Credit card payment is verified while the passenger is on line. (Pugliese ¶ 0040).

Pugliese alternatively discloses that a travel agent may access the traditional reservations system and accept payment by credit card, cash or money order:

If the travel agent handles the transaction, then payment must be made by cash or money order at block 4 or by credit card to the travel agent. (Pugliese ¶ 0040).

Pugliese does not disclose, teach or suggest “querying an awards database and determining if said user has sufficient awards in said awards account for said selected itinerary.” the use of rewards to reserve a flight. Further, Pugliese does not contemplate the use of an automated system to automatically query a rewards database to determine if a customer has sufficient awards in an awards account for a selected itinerary. In fact, Pugliese merely discloses the use of frequent flyer miles for the purchase of goods and services only after a flight has been paid for (i.e., not reserved using frequent flyer miles). Thus, Pugliese does not disclose, teach or suggest the steps of querying an awards database and determining if a customer has sufficient awards in an awards account for a selected itinerary.

The Examiner states that “Pugliese does not teach that the system used to interact with a user is an automated interactive voice response system; which is taught by Block (¶ 0010).” (Office Action dated December 3, 2008, p. 5). It should be noted that Block also fails to disclose the use of rewards to reserve a flight. Further, Block does not contemplate the use of an automated system to automatically query a rewards database to

determine if a customer has sufficient awards in an awards account for a selected itinerary. In contrast, Block discloses the use of credit card and/or debit card account information to make a reservation. (Block ¶ 0119). In the Block system, personal information, including frequent flyer data, can be stored on the central AirportAmerica system. (Block ¶¶ 0119, 0136). Such personal information “is stored and usable by security personnel to expedite security clearances,” (Block ¶ 119) and may be used for statistical analysis. (Block ¶ 0156). Block, like Pugliese, does not contemplate the use of rewards to reserve a flight. Applicant respectfully submits that Pugliese and Block do not individually, or in combination, disclose, teach or suggest the use of “querying an awards database and determining if said user has sufficient awards in said awards account for said selected itinerary,” as recited in claim 1. Therefore, the combination of Pugliese and Block cannot anticipate all of the recited elements of claim 1. Thus, the Examiner’s §103(a) rejection of claim 1 should be withdrawn.

III. THE EXAMINER’S RESPONSE TO ARGUMENTS SHOULD BE WITHDRAWN

The Examiner notes that “the determination of sufficient awards in Pugliese is not necessarily for the already selected itinerary; however this difference is only found in a statement of the intended use of the querying step. A statement of intended use is only given patentable weight to the extent that it imparts structural differences to the invention from the prior art.” (Office Action dated December 3, 2008, p. 4). Applicant has amended claims 1 and 12 to recite “determining if said user has sufficient awards in said awards account for said selected itinerary” in the body of the claims. As a result, this phrase should be accorded patentable weight.

In summary, applicant respectfully submits that Pugliese fails to teach or disclose the limitations required by independent claim 1. Applicant's invention as defined by independent claim 1 is not obviated by the references and is therefore in condition for allowance. Dependent claims 2-11 depend from allowable independent claim 1, and therefore incorporate all of the features recited in claim 1. Thus, dependent claims 2-11 are patentable over the above-cited references, alone or in combination, and are therefore in condition for allowance. Hence, the applicant respectfully requests that the Examiner withdraw the §103(a) rejections.

III. CONCLUSION

Applicant submits that the specification, drawings, and all pending claims represent a patentable contribution to the art and are in condition for allowance. Early and favorable action is accordingly solicited.

Should any changes to the claims and/or specification be deemed necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

Respectfully submitted,



David M. Hill
Reg. No. 46,170
WARD & OLIVO
380 Madison Avenue
New York, New York 10017
(212) 697-6262

Date: June 1, 2009